

OCA FILE Leg. & Admin.
RECPT # 111010

Office of the Attorney General
Washington, D. C. 20530

13 December 1985

JCA

86-0564

Mr. Dwight D. Opperman
President and Chief Executive
Officer
West Publishing Company
50 W. Kellogg Boulevard
St. Paul, Minnesota 55102

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Dear Mr. Opperman:

The purpose of this letter is to request that the West Publishing Company include the text of presidential signing statements in United States Code Congressional and Administrative News as part of the legislative history of the Acts of Congress.

Currently, it appears that the legislative history section of the U.S.C.C.A.N. includes a cross-reference to the Weekly Compilation of Presidential Documents for the President's signing statement on major bills. However, the text of presidential signing statements regularly appears only in the Weekly Compilation and in the bound volumes of the Official Papers of the President. Though available in most large legal research libraries and law school libraries, these references cannot be considered readily available to most attorneys. In view of the importance of presidential signing statements in resolving statutory interpretation questions, I would like to see them made more readily available to the legal community.

Article I, § 7, cl. 2 of the Constitution, which provides that no bill shall become law until it has been presented to the President for his approval or disapproval, gives the President an important and formal role in the legislative process. See United States v. Lovett, 328 U.S. 303, 324-25 (1946) (Frankfurter, J., concurring) ("the legislation upon which we now pass judgment is the product of both Houses of Congress and the President"). Indeed, in INS v. Chadha, 462 U.S. 919 (1983), the Supreme Court, in holding a single-house legislative veto provision unconstitutional, recently reaffirmed the vital role of the President and declared it "beyond doubt that lawmaking [is] a power to be shared by both Houses and the President." Id. at 947.

To the extent that facial ambiguities require that one look beyond the language of a statute to determine its meaning, the views of each of the bodies that have jointly created it should be considered. Courts have repeatedly recognized the importance of presidential signing statements in statutory construction. See Clifton D. Mayhew, Inc. v. Wirtz, 413 F.2d 658, 661-62 (4th Cir. 1969), (relying upon President Truman's signing statement as well as a statement by one of the bill's floor managers in construing the Portal-to-Portal Act, 29 U.S.C. § 259); National Parks & Conservation Ass'n v. Kleppe, 547 F.2d 673, 678 n.16 (D.C. Cir. 1976) (relying on signing statement as an indication of the possible breadth of the trade secrets exemption from the Freedom of Information Act, 5 U.S.C. § 552(b)(4)). Cf. United States v. Lovett, 328 U.S. 303, 313 (1946) (citing presidential signing statement in finding congressional bar on payment of salaries to employees unless they were appointed by President and confirmed by Senate to be unconstitutional bill of attainder). Similarly, in the legislative veto cases, presidential signing statements have been used to rebut suggestions of presidential acquiescence in the devices, see Chadha, 462 U.S. at 942 n.13, and of the absence of a stalemate between the political branches, see Consumer Energy Council v. FERC, 673 F.2d 425, 453-54 (D.C. Cir. 1981) aff'd mem., 463 U.S. 1216 (1983).

In view of the importance of presidential signing statements as an aid to statutory interpretation, I recommend that those statements be reproduced in full in U.S.C.C.A.N., rather than merely cross-referenced. By doing so, lawyers and courts engaged in statutory interpretation would have more readily available to them in one location both the procedural history of any given statute and its interpretation by the Chief Executive upon enactment.

With best wishes,

Sincerely,



EDWIN MEESE III
Attorney General



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DWIGHT D. OPPERMAN
President & Chief Executive Officer

December 26, 1985

Hon. Edwin Meese III
Attorney General
Office of the Attorney General
Washington, D.C. 20530


Dear Mr. Attorney General:

Thank you for your letter of December 13 which did not arrive here until December 23.

We appreciate your suggestion. I think the President's signing statement on major bills will be of interest and of help to the legal profession. I am surprised nobody thought of it before. I have told our editorial people to start including them in U.S.C.C.A.N.

With esteem, I remain

Very truly yours,


President & Chief Executive Officer

DDO:pz

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MEMORANDUM

TO: PARTICIPANTS IN SSCI-SPONSORED MEETINGS
ON INTELLIGENCE OVERSIGHT AND WAR POWERS
ISSUES

FROM: GARY M. CHASE, CHIEF COUNSEL ✓
DAN FINN, MINORITY COUNSEL ✕

DATE: JANUARY 31, 1986

We would like to invite you to another meeting of the informal intelligence oversight, war powers, and related issues group to be held on Thursday, February 20th, at 10:00 a.m. in Room 219 of the Hart Senate Office Building. The purpose of this meeting will be to discuss whether it is feasible to attempt to establish a new system for handling Congressional notification and consultation in situations involving hostage rescue efforts or preemptive or retaliatory counterterrorist operations. We expect that the recommendations of the Vice President's task force on combatting terrorism will be available by February 20th, and some of these undoubtedly will be relevant. We also will want to discuss some issues raised by proposals to forcibly bring individuals accused of terrorist activity before the jurisdiction of U.S. courts.

This should be an interesting session, and we hope that you will be able to attend. Please RSVP to Linda or Susan at 224-1700.